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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,152	11/19/2003	Neil A. Rothe	M09705	6751
7590	10/27/2004		EXAMINER	
William D. Lanyi, Esq. Mercury Marine W6250 Pioneer Road P.O. Box 1939 Fond du Lac, WI 54936-1939			OLSON, LARS A	
			ART UNIT	PAPER NUMBER
			3617	
			DATE MAILED: 10/27/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/717,152	ROTHE ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Lars A Olson	3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-39 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-39 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 19 November 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \*    c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11192003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-10, 12-21, 23-34 and 36-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Ishigaki et al. (US 6,752,671).

Ishigaki et al. discloses the same marine propulsion system as claimed, as shown in Figures 1-13, that is comprised of a water passage, defined as Parts #9, 10 and 11, having an inlet opening, defined as Part #9a, that is in fluid communication with a body of water, and an outlet opening, defined as Part #11a, from which water is expelled to provide a propulsive force for a marine vessel in the form of a personal watercraft, defined as Part #7, an impeller, defined as Part #14, that is connected in torque transmitting association with an output shaft, defined as Part #16, of an engine, defined as Part #2, said impeller being disposed within said water passage between said inlet opening and said outlet opening, as shown in Figure 2, a water pump, defined as Part #28, having an inlet conduit, defined as Part #47a, and an outlet conduit, defined as Part #49, said inlet conduit being in fluid communication with said body of

water through said water passage, as shown in Figure 2, and said outlet conduit being connected in fluid communication with a cooling system of said engine, as described in lines 57-65 of column 7, a crankshaft, defined as Part #16, that is supported for rotation about a vertical axis, and an impeller shaft, defined as Part #13, to which said impeller is attached for rotation about a horizontal axis, where said water pump is disposed at a location that is below a surface of said body of water and outside of said water passage, as shown in Figures 1 and 2, said water pump is driven by said crankshaft, as shown in Figure 2, a rotor of said water pump is concentric with said drive shaft, as shown in Figure 2, a clutch, defined as Part #15, is connected between said impeller and said output shaft, as shown in Figure 2, and said water pump is disposed between said engine and said clutch, as shown in Figures 1 and 2.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11, 22 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishigaki et al.

Ishigaki et al., as set forth above, discloses all of the features claimed except for the use of an electric water pump.

The examiner takes official notice that the use of electric water pumps with marine propulsion systems is known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize an electric water pump instead of a positive displacement water pump of the marine propulsion system as disclosed by Ishigaki et al. for the purpose of providing a marine propulsion system with a water pump that does not draw power from an engine crankshaft and reduce engine output horsepower.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Katayama (US 6,513,463) discloses a cooling system for an outboard motor that utilizes a water pump that is connected to a drive shaft of said outboard motor, a water intake for said water pump that communicates with a body of water, and a water outlet for said water pump that communicates with said cooling system. Arnold (US 3,889,623) discloses a water jet unit that includes a water intake that communicates with a body of water, and a water outlet that provides water to a cooling system for an engine.

6. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (703) 308-9807.

lo

October 19, 2004

LARS A. OLSON  
PATENT EXAMINER

*Lars Olson*  
10/19/04